

# HOUSE BILL No. 1372

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-19-8-8.5; IC 31-33; IC 33-19.

**Synopsis:** Adoption and child protection review boards. Allows a court to form an adoption review board that may review agency reports regarding adoptions and make recommendations to the court. Allows a juvenile court to form a child protection services review board that may review the removal of a child from the child's family and make recommendations to the court.

**Effective:** July 1, 2004.

**Thompson**

January 20, 2004, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## HOUSE BILL No. 1372

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 31-19-8-8.5 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3       1, 2004]: **Sec. 8.5. (a) A court may:**  
4               **(1) establish; and**  
5               **(2) assign cases to;**  
6       **an adoption review board to assist the court in reviewing an agency**  
7       **report regarding a potential adoption.**  
8       **(b) The composition of the adoption review board is in the sole**  
9       **discretion of the court.**  
10       **(c) A member of an adoption review board serves voluntarily**  
11       **and may not receive a per diem or reimbursement for expenses.**  
12       **(d) A court shall establish and assign a case to an adoption**  
13       **review board if:**  
14               **(1) the court does not assign a case to the board under**  
15               **subsection (a); and**  
16               **(2) a petitioner for adoption petitions the court to have an**  
17       **adoption review board review the agency report.**

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The court shall order the petitioner to pay an adoption review fee of not more than one hundred dollars (\$100) if a board is established under this section.

(e) If the court believes that a confidential report or document would benefit the adoption review board, the court may issue an order authorizing disclosure of the confidential report or document to the board. The board may not disclose the contents of a confidential report or document to any person who is not allowed disclosure by the court or by statute.

(f) In reviewing an agency report regarding a potential adoption, an adoption review board may consider testimony and reports from:

(1) the petitioner or petitioners for adoption; or

(2) an employee:

(A) of the county office of family and children; or

(B) the agency;

who drafted a report regarding a potential adoption.

(g) After reviewing an agency report and hearing testimony, the adoption review board shall issue a report and recommendation to the court.

(h) The report and recommendation of the adoption review board are advisory and are not binding on the court.

SECTION 2. IC 31-33-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The juvenile court shall review the status of a child removed from the child's family under this article (or IC 31-6-11 before its repeal) according to IC 31-34-21.

(b) If a juvenile court grants a petition to have a child protection services review board review the removal of a child from the child's family, the juvenile court shall review and consider the board's report.

SECTION 3. IC 31-33-16-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A juvenile court may establish and assign cases to a child protection services review board to review the removal of a child from the child's family if:

(1) the child was not removed because a family member committed or was alleged to have committed a criminal act; and

(2) it has been more than sixty (60) days since the child was removed from the family.

(b) The composition of the child protection services review

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board is in the sole discretion of the juvenile court.

(c) A member of a child protection services review board serves voluntarily and may not receive a per diem or reimbursement for expenses.

(d) A court shall establish and assign a case to a child protection services review board if:

(1) the court does not assign a case to the board under subsection (a); and

(2) a parent of a child petitions the juvenile court to have a child protection services review board review the removal of a child.

The juvenile court shall order the petitioner to pay a child protection fee of not more than one hundred dollars (\$100) if a board is established under this section.

SECTION 4. IC 31-33-16-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) In reviewing the removal of a child from the child's family under this chapter, a child protection services review board may consider testimony and reports from:

(1) a family member of the child;

(2) an employee of the local child protection services;

(3) a law enforcement officer; and

(4) an individual whom the judge requests to give testimony to the board;

who is familiar with the removal of the child from the child's family.

(b) If a court believes a confidential report or document would benefit a child protection services review board, the court may issue an order authorizing disclosure of the document to the board. The board may not disclose the contents of a confidential report or document to any person who is not allowed disclosure by the court or by statute.

(c) A child protection services review board shall issue a report and recommendation to the juvenile court.

(d) The report and recommendation of a child protection services review board are advisory and are not binding on the court.

SECTION 5. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in section 1 of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

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(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official

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functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

**(15) An adoption review board established by a court under IC 31-19-8-8.5 if a court issues an order under IC 31-19-8-8.5(e).**

**(16) A child protection services review board established by a juvenile court under IC 31-33-16-2 if a court issues an order under IC 31-33-16-3(b).**

SECTION 6. IC 33-19-5-3, AS AMENDED BY P.L.1-2002, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) For each action filed under:

(1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or

(2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) An alcohol and drug countermeasures fee.

(6) A document storage fee (IC 33-19-6-18.1).

(7) An automated record keeping fee (IC 33-19-6-19).

(8) A late payment fee (IC 33-19-6-20).

**(9) A child protection fee (IC 33-19-6-23).**

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(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The marijuana eradication program fee.
- (2) The alcohol and drug services program user fee.
- (3) The law enforcement continuing education program fee.

SECTION 7. IC 33-19-5-4, AS AMENDED BY P.L.1-2002, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) For each civil action except:

- (1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);
- (3) proceedings in juvenile court under IC 31-34 or IC 31-37;
- (4) proceedings in paternity under IC 31-14;
- (5) proceedings in small claims court under IC 33-11.6; and
- (6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100).

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.
- (3) A document storage fee (IC 33-19-6-18.1).
- (4) An automated record keeping fee (IC 33-19-6-19).
- (5) An adoption review fee (IC 33-19-6-24).**

SECTION 8. IC 33-19-6-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 23. (a) This section applies to a proceeding to review the status of a child removed from the child's family under IC 31-33-16.**

**(b) The clerk shall collect a child protection fee if ordered by the court under IC 31-33-16-2.**

SECTION 9. IC 33-19-6-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 24. (a) This section applies to a proceeding to review an agency report regarding a potential adoption under IC 31-19-8-8.5.**

**(b) The clerk shall collect an adoption review fee if ordered by the court under IC 31-19-8-8.5.**

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SECTION 10. IC 33-19-7-1, AS AMENDED BY P.L.167-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a)(1) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under

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1 IC 5-2-11.

2 (d) The clerk of a circuit court shall monthly distribute to the county  
3 auditor fifty percent (50%) of the child abuse prevention fees collected  
4 under IC 33-19-5-1(b)(8). The county auditor shall deposit fees  
5 distributed by a clerk under this subsection into the county child  
6 advocacy fund established under IC 12-17-17.

7 (e) The clerk of a circuit court shall monthly distribute to the county  
8 auditor one hundred percent (100%) of the late payment fees collected  
9 under IC 33-19-6-20. The county auditor shall deposit fees distributed  
10 by a clerk under this subsection as follows:

11 (1) If directed to do so by an ordinance adopted by the county  
12 fiscal body, the county auditor shall deposit forty percent (40%)  
13 of the fees in the clerk's record perpetuation fund established  
14 under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the  
15 county general fund.

16 (2) If the county fiscal body has not adopted an ordinance under  
17 subdivision (1), the county auditor shall deposit all the fees in the  
18 county general fund.

19 (f) The clerk of the circuit court shall semiannually distribute to the  
20 auditor of state for deposit in the sexual assault victims assistance fund  
21 established under IC 16-19-13-6 one hundred percent (100%) of the  
22 sexual assault victims assistance fees collected under IC 33-19-6-21.

23 (g) The clerk of a circuit court shall monthly distribute to the county  
24 auditor the following:

25 (1) One hundred percent (100%) of the support and maintenance  
26 fees for cases designated as non-Title IV-D child support cases in  
27 the Indiana support enforcement tracking system (ISETS)  
28 collected under IC 33-19-6-5.

29 (2) The percentage share of the support and maintenance fees for  
30 cases designated as IV-D child support cases in ISETS collected  
31 under IC 33-19-6-5 that is reimbursable to the county at the  
32 federal financial participation rate.

33 The county clerk shall monthly distribute to the office of the secretary  
34 of family and social services the percentage share of the support and  
35 maintenance fees for cases designated as Title IV-D child support cases  
36 in ISETS collected under IC 33-19-6-5 that is not reimbursable to the  
37 county at the applicable federal financial participation rate.

38 (h) The clerk of a circuit court shall monthly distribute to the county  
39 auditor one hundred percent (100%) of the small claims service fee  
40 under IC 33-19-5-5(a)(2) for deposit in the county general fund.

41 **(i) The clerk of a circuit court shall monthly distribute to the**  
42 **county auditor one hundred percent (100%) of the child protection**

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1 fee under IC 33-19-6-23 for deposit in the county general fund.

2 (j) The clerk of a circuit court shall monthly distribute to the  
3 county auditor one hundred percent (100%) of the adoption review  
4 fee under IC 33-19-6-24 for deposit in the county general fund.

5 SECTION 11. [EFFECTIVE JULY 1, 2004] (a) In addition to the  
6 distributions required by IC 33-19-7-1, as amended by this act, and  
7 subsection (b), the clerk of a circuit court shall monthly distribute  
8 to the county auditor one hundred percent (100%) of the child  
9 protection fee under IC 33-19-6-23, as added by this act, for deposit  
10 in the county general fund.

11 (b) In addition to the distributions required by IC 33-19-7-1, as  
12 amended by this act, and subsection (a), the clerk of a circuit court  
13 shall monthly distribute to the county auditor one hundred percent  
14 (100%) of the adoption review fee under IC 33-19-6-24, as added  
15 by this act, for deposit in the county general fund.

16 (c) This SECTION expires June 30, 2005.

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